Type	Grade	Hourly rate
Clerical .... (Minimum Charge).	E9/GS8 and below	$13.25 8.30

(ii) *Manual search: professional and executive* (To be established at actual hourly rate prior to search. A minimum charge will be established at ½ hourly rates).

(2) Computer search is based on the total cost of the central processing unit, input-output devices, and memory capacity of the actual computer configuration. The wage (based upon the scale in paragraph (c)(1)(i) of this section) for the computer operator and/or programmer determining how to conduct, and subsequently executing the search will be recorded as part of the computer search. See § 286.29(b)(2) for further details regarding computer search.

(3) *Duplication.*

Type	Cost
Aerial photograph, maps, specifications, permits, charts, blueprints, and other technical engineering documents	$2.50
Engineering data (microfilm):	
(i) Aperture cards.	
(A) Silver duplicate negative, per card	.75
When key punched and verified, per card	.85
(B) Diazo duplicate negative, per card	.65
When key punched and verified, per card	.75
(ii) 35mm roll film, per frame	.50
(iii) 16mm roll film, per frame	.45
(iv) Paper prints (engineering drawings), each ..	1.50
(v) Paper reprints of microfilm indices, each	.10

(4) *Review time*—(i) *Clerical.*

Type	Grade	Hourly rate ($)
Clerical .... (Minimum Charge).	E9/GS8 and below	13.25 8.30

(ii) *Professional and executive* (To be established at actual hourly rate prior to review. A minimum charge will be established at ½ hourly rates).

(d) *Other technical data records.* Charges for any additional services not specifically provided in paragraph (c) of this section, consistent with Volume 11A of DoD 7000.14–R, shall be made by Components at the following rates:

(1) Minimum charge for office copy (up to six images) $3.50
(2) Each additional image .... .10
(3) Each typewritten page 3.50

(4) Certification and validation with seal, each 5.20
(5) Hand-drawn plots and sketches, each hour or fraction thereof 12.00

Subpart G—Reports

§ 286.33 Reports control.

(a) *General.* (1) The Annual Freedom of Information Act Report is mandated by the statute and reported on a fiscal year basis. Due to the magnitude of the requested statistics and the need to ensure accuracy of reporting, DoD Components shall track this data as requests are processed. This will also facilitate a quick and accurate compilation of statistics. DoD Components shall forward their report to the Directorate for Freedom of Information and Security Review no later than November 30 following the fiscal year's close. It may be submitted electronically and via hard copy accompanied by a computer diskette. In turn, DoD will produce a consolidated report for submission to the Attorney General, and ensure that a copy of the DoD consolidated report is placed on the Internet for public access.

(2) Existing DoD standards and registered data elements are to be utilized to the greatest extent possible in accordance with the provisions of DoD Manual 8320.1–M,[12] ''Data Administration Procedures.''

(3) The reporting requirement outlined in this subpart is assigned Report Control Symbol DD-DA&M(A)1365, Freedom of Information Act Report to Congress.

(b) *Annual Report.* The current edition of DD Form 2564 shall be used to submit component input. DD Form 2564 is available on the Internet at *http://www.defenselink.mil/pubs/* under Regulations and Forms. Instructions for completion follow:

(1) *Item 1: Initial request determinations.* Please note that initial Privacy Act requests which are also processed as initial FOIA requests are reported here. They will also be reported as ''Privacy Act requests'' on the Annual Privacy Act Report. See § 286.4(m), Relationship between the FOIA and the Privacy Act (PA).

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[12] See footnote 1 to § 286.1(a).

(i) *Total requests processed.* Enter the total number of initial FOIA requests responded to (completed) during the fiscal year. Since more than one action frequently is taken on a completed case, total actions (see (b)(1)(vi) of this section) the sum of Items (b)(1)(ii) through (b)(1)(v) of this section, may exceed total requests processed (See appendix E of this part for form layout.)

(ii) *Granted in full.* Enter the total number of initial FOIA requests responded to that were granted in full during the fiscal year. (This may include requests granted by your office, yet still requiring action by another office.)

(iii) *Denied in part.* Enter the total number of initial FOIA requests responded to and denied in part based on one or more of the FOIA exemptions. (Do not report "other reason responses" as a partial denial here, unless a FOIA exemption is used also.)

(iv) *Denied in full.* Enter the total number of initial FOIA requests responded to and denied in full based on one or more of the FOIA exemptions. (Do not report "other reason responses" as denials here, unless a FOIA exemption is used also.)

(v) *"Other reason" responses.* Enter the total number of initial FOIA requests in which you were unable to provide all or part of the requested information based on an "other reason" response. Paragraph (b)(2)(ii) of this section explains the nine possible "other reasons."

(vi) *Total actions.* Enter the total number of FOIA actions taken during the fiscal year. This number will be the sum of (b)(1)(ii) through (b)(1)(v) of this section. Total actions must be equal to or greater than the number of total requests processed (paragraph (b)(1)(i) of this section).

(2) *Item 2: Initial request exemptions and other reasons*—(i) *Exemptions invoked on initial request determinations.* Enter the number of times an exemption was claimed for each request that was denied in full or in part. Since more than one exemption may be claimed when responding to a single request, this number will be equal to or greater than the sum of (b)(1)(iii) and (b)(1)(iv) of this section. The (b)(7) ex-

emption is reported by subcategories identified in paragraphs (b)(2)(i)(A) through (b)(2)(i)(F) of this section:

(A) Interfere with enforcement;

(B) Fair trial right;

(C) Invasion of privacy;

(D) Protect confidential source;

(E) Disclose techniques; and

(F) Endanger life or safety.

(ii) *"Other reasons" cited on initial determinations.* Identify the "other reason" response cited when responding to a FOIA request and enter the number of times each was claimed.

(A) *No records.* Enter the number of times a reasonable search of files failed to identify records responsive to subject request.

(B) *Referrals.* Enter the number of times a request was referred to another DoD Component or Federal Agency for action.

(C) *Request withdrawn.* Enter the number of times a request and/or appeal was withdrawn by a requester. (For appeals, report number in Item 4b on the report form. (See appendix E of this part.))

(D) *Fee-related reason.* Requester is unwilling to pay the fees associated with a request; the requester is past due in the payment of fees from a previous FOIA request; or the requester disagrees with a fee estimate.

(E) *Records not reasonably described.* Enter the number of times a FOIA request could not be acted upon since the record had not been described with sufficient particularity to enable the DoD Component to locate it by conducting a reasonable search.

(F) *Not a proper FOIA request for some other reason.* Enter the number of times the requester has failed unreasonably to comply with procedural requirements, other than fee-related (described in paragraph (b)(2)(ii)(D) of this section), imposed by this part or a DoD Component's supplementing regulation.

(G) *Not an agency record.* Enter the number of times a requester was provided a response indicating the requested information was not a record within the meaning of the FOIA and this part.

(H) *Duplicate request.* Record number of duplicate requests closed for that

reason (e.g., request for the same information by the same requester). This includes identical requests received via different means (e.g., electronic mail, facsimile, mail, courier) at the same or different times.

(I) *Other (specify)*. Any other reason a requester does not comply with published rules, other than those reasons outlined in paragraphs (b)(2)(ii)(A) through (b)(2)(ii)(H) of this section.

(J) *Total*. Enter the sum of paragraphs (b)(2)(ii)(A) through (b)(2)(ii)(I) of this section in the block provided on the form. This number will be equal to or greater than the number in paragraph (b)(1)(v) of this section since more than one reason may be claimed for each ''other reason'' response.

(iii) *(b)(3) statutes invoked on initial determinations*. Identify the number of times you have used a specific statute to support each (b)(3) exemption. List the statutes used to support each (b)(3) exemption; the number of instances in which the statute was cited; note whether or not the statute has been upheld in a court hearing; and provide a concise description of the material withheld in each individual case by the statute's use. Ensure you cite the specific sections of the acts invoked. The total number of instances reported will be equal to or greater than the total number of (b)(3) exemptions listed in Item 2a on the report form.

(3) *Item 3: Appeal determinations*. Please note that Privacy Act appeals which are also processed as FOIA appeals are reported here. They will also be reported as ''Privacy Act appeals'' on the Annual Privacy Act Report. See § 286.4(m), Relationship Between the FOIA and the Privacy Act (PA).

(i) *Total appeal responses*. Enter the total number of FOIA appeals responded to (completed) during the fiscal year.

(ii) *Granted in full*. Enter the total number of FOIA appeals responded to and granted in full during the year.

(iii) *Denied in part*. Enter the total number of FOIA appeals responded to and denied in part based on one or more of the FOIA exemptions. (Do not report ''other reason responses'' as a partial denial here, unless a FOIA exemption is used also.)

(iv) *Denied in Full*. Enter the total number of FOIA appeals responded to and denied in full based on one or more of the FOIA exemptions. (Do not report ''other reason responses'' as denials here, unless a FOIA exemption is used also.)

(v) *''Other reason'' responses*. Enter the total number of FOIA appeals in which you were unable to provide the requested information based on an ''other reason'' response (as outlined in ''other reasons'' in paragraph (b)(2)(ii) of this section).

(vi) *Total actions*. Enter the total number of FOIA appeal actions taken during the fiscal year. This number will be the sum of paragraphs (b)(3)(ii) through (b)(3)(v) of this section, and should be equal to or greater than the number of total appeal responses, paragraph (b)(3)(i) of this section.

(4) *Item 4: Appeal exemptions and other reasons*—(i) *Exemptions invoked on appeal determinations*. Enter the number of times an exemption was claimed for each appeal that was denied in full or in part. Since more than one exemption may be claimed when responding to a single request, this number will be equal to or greater than the sum of paragraphs (b)(3)(iii) and (b)(3)(iv) of this section. Note that the (b)(7) exemption is reported by subcategories identified in paragraphs (b)(4)(i)(A) through (b)(4)(i)(F) of this section:

(A) Interfere with enforcement;

(B) Fair trial right;

(C) Invasion of privacy;

(D) Protect confidential source;

(E) Disclose techniques; and

(F) Endanger life or safety.

(ii) *''Other reasons'' cited on appeal determinations*. Identify the ''other reason'' response cited when responding to a FOIA appeal and enter the number of times each was claimed. See paragraph (b)(2)(ii) of this section for description of ''other reasons.'' This number may be equal to or possibly greater than the number in paragraph (b)(3)(v) of this section since more than one reason may be claimed for each ''other reason'' response.

(iii) *(b)(3) statutes invoked on appeal determinations*. Identify the number of times a specific statute has been used

to support each (b)(3) exemption identified in item 4a on the report form (Appendix E of this part). List the statutes used to support each (b)(3) exemption; the number of instances in which the statute was cited; note whether or not the statute has been upheld in a court hearing; and provide a concise description of the material withheld in each individual case by the statute's use. Ensure citation to the specific sections of the statute invoked. The total number of instances reported will be equal to or greater than the total number of (b)(3) exemptions listed in Item 4a on the report form.

(5) *Item 5: Number and median age of initial cases pending:* (i) Total initial cases pending:

(ii) *Beginning and ending report period:* Midnight, 2400 hours, September 30 of the Preceding Year—OR—0001 hours, October 1 is the beginning of the report period. Midnight, 2400 hours, is the close of the reporting period.

(iii) *Median age of initial requests pending:* Report the median age in days (including holidays and weekends) of initial requests pending.

(iv) *Examples of median calculation.* (A) If given five cases aged 10, 25, 35, 65, and 100 days from date of receipt as of the previous September 30th, the total requests pending is five (5). The median age (days) of open requests is the middle, not average value, in this set of numbers (10, 25, 35, 65, and 100), 35 (the middle value in the set).

(B) If given six pending cases, aged 10, 20, 30, 50, 120, and 200 days from date of receipt, as of the previous September 30th, the total requests pending is six (6). The median age (days) of open requests 40 days (the mean [average] of the two middle numbers in the set, in this case the average of middle values 30 and 50).

(v) *Accuracy of calculations.* Components must ensure the accuracy of calculations. As backup, the raw data used to perform calculations should be recorded and preserved. This will enable recalculation of median (and mean values) as necessary. Components may require subordinate elements to forward raw data, as deemed necessary and appropriate.

(vi) *Average.* If a Component believes that "average" (mean) processing time is a better measure of performance, then report "averages" (means) as well as median values (e.g., with data reflected and plainly labeled on plain bond as an attachment to the report). However, "average" (mean) values will not be included in the consolidated DoD report unless all Components report it.

(6) *Item 6: Number of initial requests received during the fiscal year.* Enter the total number of initial FOIA requests received during the reporting period (fiscal year being reported).

(7) *Item 7: Types of requests processed and median age.* Information is reported for three types of initial requests completed during the reporting period: Simple; Complex; and Expedited Processing. The following items of information are reported for these requests:

(i) *Total number of initial requests.* Enter the total number of initial requests processed [completed] during the reporting period (fiscal year) by type (Simple, Complex and Expedited Processing) in the appropriate row on the form.

(ii) *Median age (days).* Enter the median number of days [calendar days including holidays and weekends] required to process each type of case (Simple, Complex and Expedited Processing) during the period in the appropriate row on the form.

(iii) *Example.* Given seven initial requests, multitrack—simple completed during the fiscal year, aged 10, 25, 35, 65, 79, 90 and 400 days when completed. The total number of requests completed was seven (7). The median age (days) of completed requests is 65, the middle value in the set.

(8) *Item 8: Fees collected from the public.* Enter the total amount of fees collected from the public during the fiscal year. This includes search, review and reproduction costs only.

(9) *Item 9: FOIA program costs*—(i) *Number of full time staff.* Enter the number of personnel your agency had dedicated to working FOIA full time during the fiscal year. This will be expressed in work-years (manyears). For example: "5.1, 3.2, 1.0, 6.5, et al." A sample calculation follows:

Employee	Number (months worked)	Work-years	Note
SMITH, Jane	6	0.5	Hired full time at middle of fiscal year.
PUBLIC, John Q	4	.34	Dedicated to full time FOIA processing last quarter of fiscal year.
BROWN, Tom	12	1.0	Worked FOIA full time all fiscal year.
Total	22	1.84	

(ii) *Number of part time staff:* Enter the number of personnel your agency had dedicated to working FOIA part time during the fiscal year. This will be expressed in work-years (manyears). For example: "5.1, 3.2, 1.0, 6.5, et al." A sample calculation follows:

Employee	Number (hours worked)	Work-years	Note
PUBLIC, John Q	200	.1	Amount of time devoted to part time FOIA processing before becoming full time FOIA processor in previous example.
WHITE, Sally	400	.2	Processed FOIA's part time while working as paralegal in General Counsel's Office.
PETERS, Ron	1,000	.5	Part time employee dedicated to FOIA processing.
Total: [1] 1,600/2,000	....	....	

[1] Hours (hours worked in a year) equals 0.8 work-years.

(iii) *Estimated litigation cost:* Report your best estimate of litigation costs for the FY. Include all direct and indirect expenses associated with FOIA litigation in U.S. District Courts, U.S. Circuit Courts of Appeals, and the U.S. Supreme Court.

(iv) *Total program cost:* Report the total cost of FOIA program operation within your agency. Include your litigation costs in this total. While you do not have to report detailed cost information as in the past, you should be able to explain the technique by which you derived your agency's total cost figures if the need arises.

(A) Before the close of each fiscal year, the Directorate for Freedom of Information and Security Review (DFOISR) will dispatch the latest OSD Composite Rate Chart for military personnel to DoD Components. This information may be used in computing military personnel costs.

(B) DoD Components should compute their civilian personnel costs using rates from local Office of Personnel Management (OPM) Salary Tables and shall add 16% for benefits.

(C) Data captured on DD Form 2086, Record of Freedom of Information (FOI) Processing Cost and DD Form 2086–1, Record of Freedom of Information (FOI) Processing Cost for Technical Data, shall be summarized and used in computing total costs.

(D) An overhead rate of 25% shall be added to all calculated costs for supervision, space, and administrative support.

(10) *Item 10: Authentication.* The official that approves the agency's report submission to DoD will sign and date; enter typed name and duty title; and provide both the agency's name and phone number for questions about the report.

(c) *Electronic publication.* The consolidated DoD Annual FOIA Program Report will be made available to the public in either paper or electronic format.